

2005 DRAFTING REQUEST

Bill

Received: **12/14/2005**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Barbara Toles (608) 266-5580**

By/Representing: **Rep. Toles**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact: **Steve Frank**
414-286-5062

Addl. Drafters:

Subject: **Local Gov't - 1st class cities**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Toles@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Payment of a 1st class city police officer's salary after discharge

Instructions:

See Attached. Based on AB 599 (LRB -3253/1), w/ attached changes: Remove automatic adjournment; If criminally charged, pay stops; If appeal is denied, officer must pay back any money paid after discharge

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/1	mshovers 01/04/2006	jdyer 01/12/2006	rschluet 01/12/2006	_____ _____	sbasford 01/12/2006		S&L
/2	mshovers 02/09/2006	jdyer 02/09/2006	rschluet 02/09/2006	_____ _____	sbasford 02/09/2006		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	mshovers 02/16/2006	jdyer 02/17/2006	rschluet 02/17/2006	_____	lnorthro 02/17/2006	lnorthro 02/17/2006	

FE Sent For:

<END>

At
intro.

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JACKET for
Assembly

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13 MES 2/16/06
13 2/17 JLD
2176
JF

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<END>

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May Contact: Steve Frank
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See Attached. Based on AB 599 (LRB -3253/1), w/ attached changes: Remove automatic adjournment; If criminally charged, pay stops; If appeal is denied, officer must pay back any money paid after discharge

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/1	mshovers 01/04/2006	jdye 01/12/2006	rschluet 01/12/2006		sbasford 01/12/2006		

FE Sent For:

296 <END>

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Received: **12/14/2005**

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For: **Barbara Toles (608) 266-5580**

By/Representing: **Rep. Toles**

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May Contact: **Steve Frank**
414-286-5062

Addl. Drafters:

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Submit via email: **YES**

Requester's email: **Rep.Toles@legis.state.wi.us**

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Instructions:

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/?	mshovers	1/12 jld					
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11 MES 1/4/05

1126 JF

FE Sent For:

<END>

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

- see p. 22.50 Rep. Tolos
- 1) Remove automatic adjournment
45 day adjournment
 - 2) If criminally charged, pay stops
 - 3) If they get paid, if appeal is denied,
they must pay the \$ back

can call Steve Frank
414-286-5062

Rep. Tolos 6-5580
or
414-444-3810



2005 ASSEMBLY BILL 599

August 9, 2005 – Introduced by Representatives TOLES, COLON, RICHARDS, A. WILLIAMS, PARISI, GRIGSBY, FIELDS, BERCEAU, TOWNSEND, WOOD, JESKEWITZ and WASSERMAN, cosponsored by Senators COGGS, GROTHMAN and TAYLOR. Referred to Committee on Corrections and the Courts.

- 1 **AN ACT to amend** 62.50 (18) of the statutes; **relating to:** payment of a 1st class
2 city police officer's salary after discharge.

Analysis by the Legislative Reference Bureau

Under current law, no member of the police force of a first class city (presently only Milwaukee) may be suspended or discharged without pay or benefits until the matter that is the subject of the suspension or discharge is disposed of by the board of fire and police commissioners or the time for an appeal passes without an appeal being made. Also under current law, if the board's decision upholding the discharge or suspension is reversed, the member must be reinstated to his or her former position in the department and is entitled to pay as if he or she was not suspended or discharged.

This bill removes the current law's provisions relating to the payment of the salary of police officers who are discharged. The bill does not affect current law provisions relating to reinstatement and back pay for a member if the board's decision is reversed.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 **SECTION 1.** 62.50 (18) of the statutes is amended to read:

ASSEMBLY BILL 599

62.50 (18) SALARY DURING SUSPENSION. No chief officer of either department or member of the fire department may be deprived of any salary or wages for the period of time suspended preceding an investigation or trial, unless the charge is sustained. No member of the police force may be suspended ~~or discharged~~ under sub. (11) or (13) without pay or benefits until the matter that is the subject of the suspension ~~or discharge~~ is disposed of by the board or the time for appeal under sub. (13) passes without an appeal being made.

SECTION 2. Initial applicability.

(1) This act first applies to any member of the police force who is covered by a collective bargaining agreement that contains provisions inconsistent with this act on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.

(END)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-4310/2

MES:.....

1/13 FRIDAY
(per requester)

jld (RMA)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen

and repayment

- 1 AN ACT ...; relating to: payment of a 1st class city police officer's salary after
2 suspension or discharge.

Analysis by the Legislative Reference Bureau

(board) Under current law, no member of the police force of a first class city (presently only Milwaukee) may be suspended or discharged without pay or benefits until the matter that is the subject of the suspension or discharge is disposed of by the board of fire and police commissioners or the time for an appeal passes without an appeal being made. Also under current law, if the board's decision upholding the discharge or suspension is reversed, the member must be reinstated to his or her former position in the department and is entitled to pay as if he or she was not suspended or discharged.

Under this bill, if a member of the police force is charged with a crime, the officer may be denied pay and benefits until the matter that is the subject of the suspension or discharge is resolved or the time for an appeal passes without an appeal being made. Also under the bill, if the charges against the officer are sustained, including the officer's appeal, the officer is required to reimburse the city for any wages he or she received, as a police officer, from the time that the charges were filed until the suspension or dismissal becomes final.

* Currently, both the accused and the chief of a department have the right to request up to a 15 day adjournment of the trial or investigation of the charges. The bill repeals this provision.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 62.50 (16) of the statutes is amended to read:

62.50 (16) TRIAL, ADJOURNMENT. The accused and the chief shall have the right

to an adjournment of the trial or investigation of the charges, not to exceed 15 days.

In the course of any trial or investigation under this section each member of the fire and police commission may administer oaths, secure by its subpoenas both the attendance of witnesses and the production of records relevant to the trial and investigation, and compel witnesses to answer and may punish for contempt in the same manner provided by law in trials before municipal judges for failure to answer or to produce records necessary for the trial. The trial shall be public and all witnesses shall be under oath. The accused shall have full opportunity to be heard in defense and shall be entitled to secure the attendance of all witnesses necessary for the defense at the expense of the city. The accused may appear in person and by attorney. The city in which the department is located may be represented by the city attorney. All evidence shall be taken by a stenographic reporter who first shall be sworn to perform the duties of a stenographic reporter in taking evidence in the matter fully and fairly to the best of his or her ability.

History: 1977 c. 19, 20, 53, 151; 1977 c. 272 ss. 24 to 30, 92 to 95; 1979 c. 307, 351; 1979 c. 361 s. 113; 1981 c. 213, 380; 1981 c. 391 s. 211; 1983 a. 58, 179, 192, 219; 1989 a. 31; 1997 a. 237, 250; 1999 a. 9; 2001 a. 16.

SECTION 2. 62.50 (18) of the statutes is amended to read:

62.50 (18) SALARY DURING SUSPENSION. No chief officer of either department or member of the fire department may be deprived of any salary or wages for the period of time suspended preceding an investigation or trial, unless the charge is sustained.

No Unless he or she is charged with a crime, no member of the police force may be suspended or discharged under sub. (11) or (13) without pay or benefits until the matter that is the subject of the suspension or discharge is disposed of by the board or the time for appeal under sub. (13) passes without an appeal being made. If the charges against a member of the police force are sustained, including the member's appeal, the member shall reimburse the city for all wages he or she received as a member of the police force from the time that he or or she was charged until the date that his or her suspension or discharge is final.

History: 1977 c. 19, 20, 53, 151; 1977 c. 272 ss. 24 to 30, 92 to 95; 1979 c. 307, 351; 1979 c. 361 s. 113; 1981 c. 213, 380; 1981 c. 391 s. 211; 1983 a. 58, 179, 192, 219; 1989 a. 31; 1997 a. 237, 250; 1999 a. 9; 2001 a. 16.

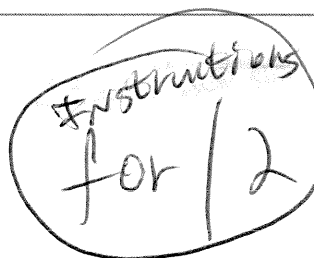
SECTION 3. Initial applicability.

(1) This act first applies to any member of the police force who is covered by a collective bargaining agreement that contains provisions inconsistent with this act on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.

(END)

Shovers, Marc

From: Stromme, Denise
Sent: Tuesday, January 24, 2006 4:18 PM
To: Shovers, Marc
Subject: FW: comments on LRB 4310/1



Marc-

Rep. Toles wanted me to forward this to you. They are some changes she would like to discuss tomorrow and would like you to have a copy in advance.

Denise Stromme
Office of Rep. Barbara Toles
(608) 266-5580

From: Sharon Cook [mailto:shcook@milwaukee.gov]
Sent: Monday, January 23, 2006 9:27 AM
To: Rep.Toles
Cc: David Heard; Jennifer Gonda; MARIA MONTEAGUDO; STEVE FRONK
Subject: comments on LRB 4310/1

Thanks for seeking the City's input regarding your draft. After consulting with Maria Monteguedo, Steve Fronk, David Heard, the city attorneys office and the Mayor, here are some suggestions which we feel reflect your stated intent.

Section 1

the draft does what you want it to do...eliminate the automatic adjournment.

However in addition, we'd suggest modifying 62.50 (14) regarding when a trial may be set. The suggestion would be to set the trial not less than 30 days nor more than 60 days. Current law is 15 and 30.

Section 2

we'd suggest a modification to the language in the draft....

Subject to subsection (18)(a), no member of the police force may be suspended or discharged under sub. (11) or (13) without pay or benefits until the matter that is the subject of the suspension or discharge is disposed of by the board or the time for appeal under sub. (13) passes without an appeal being made.

create a new subsection 62.50(18)(a)

(a) No member of either department shall be entitled to salary, wages or benefits under this section pending an appeal of any discharge to the Fire and Police Commission if criminal charges are also pending against such individual which arise out of the same conduct or incident which serves as the basis for the discharge.

In addition, we'd suggest language that clearly states the city has the ability to initiate action to collect.

01/24/2006

Our suggested language would be added to Section 2:

The City Attorney may initiate an action in quo warranto to enforce this provision.

Thanks again, and we'll make ourselves available at any time to assist you.

*Sharon Cook
Director, Intergovernmental Relations
City of Milwaukee
office phone: 414-286-5562
fax: 414-286-8547*

(FMR)

2005 BILL

WANTED: Fri. a.m.

repen

- 1 AN ACT *to amend* 62.50 (16) and 62.50 (18) of the statutes; **relating to:** payment
 2 and repayment of a 1st class city police officer's salary after suspension or
 3 discharge.

Analysis by the Legislative Reference Bureau

police officer whose suspension or removal is reversed.

Under current law, no member of the police force of a first class city (presently only Milwaukee) may be suspended or discharged without pay or benefits until the matter that is the subject of the suspension or discharge is disposed of by the Board of Fire and Police Commissioners (board) or the time for an appeal passes without an appeal being made. Also under current law, if the board's decision upholding the discharge or suspension is reversed, the member must be reinstated to his or her former position in the department and is entitled to pay as if he or she was not suspended or discharged. Similar provisions apply to a 2nd, 3rd, or 4th class city.

Under this bill, if a member of the police force is charged with a crime, the officer may be denied pay and benefits until the matter that is the subject of the suspension or discharge is resolved or the time for an appeal passes without an appeal being made. Also under the bill, if the charges against the officer are sustained, including the officer's appeal, the officer is required to reimburse the city for any wages he or she received, as a police officer, from the time that the charges were filed until the suspension or dismissal becomes final.

second, third, or fourth

Currently, both the accused and the chief of a department have the right to request up to a 15-day adjournment of the trial or investigation of the charges. The bill repeals this provision.

BILL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 62.50 (16) of the statutes is amended to read:

62.50 (16) TRIAL; ADJOURNMENT. ~~The accused and the chief shall have the right to an adjournment of the trial or investigation of the charges, not to exceed 15 days.~~
In the course of any trial or investigation under this section each member of the fire and police commission may administer oaths, secure by its subpoenas both the attendance of witnesses and the production of records relevant to the trial and investigation, and compel witnesses to answer and may punish for contempt in the same manner provided by law in trials before municipal judges for failure to answer or to produce records necessary for the trial. The trial shall be public and all witnesses shall be under oath. The accused shall have full opportunity to be heard in defense and shall be entitled to secure the attendance of all witnesses necessary for the defense at the expense of the city. The accused may appear in person and by attorney. The city in which the department is located may be represented by the city attorney. All evidence shall be taken by a stenographic reporter who first shall be sworn to perform the duties of a stenographic reporter in taking evidence in the matter fully and fairly to the best of his or her ability.

SECTION 2. 62.50 (18) of the statutes is amended to read:

62.50 (18) SALARY DURING SUSPENSION. No chief officer of either department or member of the fire department may be deprived of any salary or wages for the period of time suspended preceding an investigation or trial, unless the charge is sustained.

No ~~Unless he or she is charged with a crime, no~~ member of the police force may be

Except as provided in par. (b), no

letter

BILL

1 suspended or discharged under sub. (11) or (13) without pay or benefits until the
2 matter that is the subject of the suspension or discharge is disposed of by the board
3 or the time for appeal under sub. (13) passes without an appeal being made. If the
4 charges against a member of the police force are sustained, including the member's
5 appeal, the member shall reimburse the city for all wages he or she received as a
6 member of the police force from the time that he or or she was charged until the date
7 that his or her suspension or discharge is final.

SECTION 3. Initial applicability.

8
9 (1) This act first applies to any member of the police force [✓] who is covered by a ^{or fire department}
10 collective bargaining agreement that contains provisions inconsistent with this act
11 on the day on which the collective bargaining agreement expires or is extended,
12 modified, or renewed, whichever occurs first.

(END)

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4310/2ins
MES:jld:rs

INSERT ANL - 1

NO# → Currently, no member of a police force of a *second* ~~2nd~~, *third* ~~3rd~~, or *fourth* ~~4th~~ class city may be deprived of compensation while suspended, pending disposition of the charges.

INSERT ANL -2

five → Under this bill, if a member of either the police or fire departments of a *first* ~~first~~ class city is discharged, the member is not entitled to any salary, wages, or benefits from either department pending his or her appeal to the board if criminal charges, which arose out ~~out~~ of the same conduct or incident ~~which~~ *that* led to the discharge, are pending against the member. Also under the bill, if the charges against a police officer are sustained, including the officer's appeal, the officer is required to reimburse the city for any wages he or she received, as a police officer, from the time that the charges were filed until the suspension or dismissal becomes final.

Currently, if the board receives a notice of appeal, it must schedule a trial within *5* ~~5~~ and 15 days after service of the notice and copy of the complaint. This bill changes the time frame of a trial to between 30 and 60 days. ✓

INSERT 2-1

x
SECTION 1. 62.50 (14) of the statutes is amended to read:

62.50 (14) COMPLAINT. The board, after receiving the notice of appeal shall, within 5 days, serve the appellant with a copy of the complaint and a notice fixing the time and place of trial, which time of trial may not be less than *5* ~~5~~ *30* ~~30~~ days nor more than *15* ~~15~~ *60* ~~60~~ days after service of the notice and a copy of the complaint. ✓

History: 1977 c. 19, 20, 53, 151; 1977 c. 272 ss. 24 to 30, 92 to 95; 1979 c. 307, 351; 1979 c. 361 s. 113; 1981 c. 213, 380; 1981 c. 391 s. 211; 1983 a. 58, 179, 192, 219; 1989 a. 31; 1997 a. 237, 250; 1999 a. 9; 2001 a. 16.

INSERT 3-7

x
SECTION 2. 62.50 (18) (b) of the statutes is created to read:

62.50 (18) (b) Following a discharge under sub. (11) or (13), *no* member of either department is entitled to any salary, wages, or benefits from either department pending an appeal of the discharge to the board of fire and police commissioners if criminal charges are also pending against the member and such charges arose out of the same conduct or incident *that* ~~which~~ serves as the basis for the discharge. ✓



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-4310/2

MES:jld:rs

RMR

2005 BILL

Fri. A.M.

JACKET for A.

gen

- 1 AN ACT *to renumber and amend* 62.50 (18); *to amend* 62.50 (14) and 62.50
2 (16); and *to create* 62.50 (18) (b) of the statutes; **relating to:** payment and
3 repayment of a 1st class city police officer's ^{pay and benefits} salary after suspension or
4 discharge.

Analysis by the Legislative Reference Bureau

Under current law, no member of the police force of a first class city (presently only Milwaukee) may be suspended or discharged without pay or benefits until the matter that is the subject of the suspension or discharge is disposed of by the Board of Fire and Police Commissioners (board) or the time for an appeal passes without an appeal being made. Currently, no member of a police force of a second, third, or fourth class city may be deprived of compensation while suspended, pending disposition of the charges.

Also under current law, if the board's decision upholding the discharge or suspension is reversed, the member must be reinstated to his or her former position in the department and is entitled to pay as if he or she was not suspended or discharged. Similar provisions apply to a second, third, or fourth class city police officer whose suspension or removal is reversed.

Under this bill, if a member of either the police or fire departments of a first class city is discharged, the member is not entitled to any salary, wages, or benefits from either department pending his or her appeal to the board if criminal charges, which arose out of the same conduct or incident that led to the discharge, are pending against the member. Also under the bill, if the charges against a police officer are

BILL

salary, pay, or benefits for scheduling

sustained, including the officer's appeal, the officer is required to reimburse the city for any wages he or she received, as a police officer, from the time that the charges were filed until the suspension or dismissal becomes final.

Currently, if the board receives a notice of appeal, it must schedule a trial within five and 15 days after service of the notice and copy of the complaint. This bill changes the time frame of a trial to between 30 and 60 days.

Currently, both the accused and the chief of a department have the right to request up to a 15-day adjournment of the trial or investigation of the charges. The bill repeals this provision.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 62.50 (14) of the statutes is amended to read:

2 62.50 (14) COMPLAINT. The board, after receiving the notice of appeal shall,
3 within 5 days, serve the appellant with a copy of the complaint and a notice fixing
4 the time and place of trial, which time of trial may not be less than 5 30 days nor more
5 than ~~15~~ 60 days after service of the notice and a copy of the complaint.

6 **SECTION 2.** 62.50 (16) of the statutes is amended to read:

7 62.50 (16) TRIAL; ADJOURNMENT. ~~The accused and the chief shall have the right~~
8 ~~to an adjournment of the trial or investigation of the charges, not to exceed 15 days.~~

9 In the course of any trial or investigation under this section each member of the fire
10 and police commission may administer oaths, secure by its subpoenas both the
11 attendance of witnesses and the production of records relevant to the trial and
12 investigation, and compel witnesses to answer and may punish for contempt in the
13 same manner provided by law in trials before municipal judges for failure to answer
14 or to produce records necessary for the trial. The trial shall be public and all
15 witnesses shall be under oath. The accused shall have full opportunity to be heard
16 in defense and shall be entitled to secure the attendance of all witnesses necessary

BILL

1 for the defense at the expense of the city. The accused may appear in person and by
2 attorney. The city in which the department is located may be represented by the city
3 attorney. All evidence shall be taken by a stenographic reporter who first shall be
4 sworn to perform the duties of a stenographic reporter in taking evidence in the
5 matter fully and fairly to the best of his or her ability.

6 **SECTION 3.** 62.50 (18) of the statutes is renumbered 62.50 (18) (a) and amended
7 to read:

8 62.50 (18) (a) SALARY DURING SUSPENSION. No chief officer of either department
9 or member of the fire department may be deprived of any salary ^{pay} or ^{or benefits} wages for the
10 period of time suspended preceding an investigation or trial, unless the charge is
11 sustained. No Except as provided in par. (b), no member of the police force may be
12 suspended or discharged under sub. (11) or (13) without ^{salary} ^{wages} ^{pay} ^{or benefits} ^{score} until the
13 matter that is the subject of the suspension or discharge is disposed of by the board
14 or the time for appeal under sub. (13) passes without an appeal being made. If the
15 charges against a member of the police force are sustained, including the member's
16 appeal, the member shall reimburse the city for all ^{salary} ^{pay} ^{wages} ^{or benefits} he or she received as a
17 member of the police force from the time that he or or she was charged until the date
18 that his or her suspension or discharge is final.

19 **SECTION 4.** 62.50 (18) (b) of the statutes is created to read:

20 62.50 (18) (b) Following a discharge under sub. (11) or (13), no member of either
21 department is entitled to any salary, ^{pay} ^{wages} ^{or benefits} from either department
22 pending an appeal of the discharge to the board of fire and police commissioners if
23 criminal charges are also pending against the member and such charges arose out
24 of the same conduct or incident that serves as the basis for the discharge.

25 **SECTION 5. Initial applicability.**

BILL

SECTION 5

(1) This act first applies to any member of the police force or fire department who is covered by a collective bargaining agreement that contains provisions inconsistent with this act on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.

(END)